

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LINDA MELLEN,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-10644-MEL
)	
TRUSTEES OF BOSTON UNIVERSITY)	
AND FRANCES A. DROLETTE,)	
)	
Defendants.)	
)	

**DEFENDANTS' MOTION TO
QUASH SUBPOENA AND FOR
ENTRY OF A PROTECTIVE ORDER**

Pursuant to Fed. R. Civ. P. 45(c)(3)(A)(iv), Defendants Trustees of Boston University and Frances A. Drolette (together, the "University") respectfully move this Court (1) to quash a subpoena issued by Plaintiff and (2) for entry of a protective order pursuant to Fed. R. Civ. Proc. 26(c)(1) to bar Plaintiff's attempt to take discovery of third parties.

Plaintiff seeks documents concerning litigation between the University and two former employees, unrelated to this case, that was settled more than two years ago. She has subpoenaed documents from the attorney who represented those employees, even though the documents are also (and, reading the subpoena, obviously) within the possession of the University—they all relate to that litigation. But Plaintiff never sought production of those documents from the University during the course of this litigation. Had Plaintiff filed a timely request, the University would have objected to the production of those documents on relevance grounds, among others. Now, more than a year after discovery in this matter has closed and with trial fast approaching, Plaintiff seeks new documents for the first time without seeking leave of Court to reopen

discovery in this matter. Plaintiff's effort to circumvent the discovery process is both inappropriate and unduly burdensome, and should be rejected.

Additional support for this Motion is set forth in the accompanying Memorandum.

CONCLUSION

WHEREFORE, Defendants Trustees of Boston University and Frances A. Drolette respectfully request that the subpoena be quashed and that the Court enter a protective order to bar the production of the documents requested by Plaintiff's subpoena.

TRUSTEES OF BOSTON UNIVERSITY
AND FRANCES A. DROLETTE,
By their attorneys,

/s/Crystal D. Talley

Lawrence S. Elswit, BBO # 153900
Crystal D. Talley, BBO # 633759
Boston University
Office of the General Counsel
125 Bay State Road
Boston, Massachusetts 02215
(617) 353-2326

Dated: September 7, 2006

LR 7.1 Certification

I, Crystal D. Talley, hereby certify that I have conferred with counsel for Plaintiff and have attempted in good faith to resolve or narrow the issues presented herein. I further certify that Plaintiff has represented that he will inform the recipient of the third-party subpoena that no response is required until this motion has been resolved by the Court.

/s/ Crystal D. Talley